

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILLIP IRA SCHEFFLIN,

Petitioner,

V.

STATE OF WASHINGTON.

Respondent.

Case No. C05-5696FDB

ORDER REFUSING TO SERVE
PETITION AND DIRECTION
TO SHOW CAUSE

The Court, having reviewed the § 2254 petition filed in this case, does hereby find and ORDER:

(1) The Court will not order a response to the petition because petitioner has failed to name a proper respondent.

Rule 2(a) of the Rules Governing Section 2254 cases in the United States District Court states:

(a) Applicants in present custody. If the applicant is presently in custody pursuant to the state judgment in question, the application shall be in the form of a petition for a writ of habeas corpus in which the state officer having custody of the applicant shall be named as respondent.

Accordingly, a petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition. This person typically is the warden of the facility in which the petitioner is incarcerated. Failure to name the petitioner's custodian deprives federal courts of personal jurisdiction. Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994)(citations omitted). In this case, petitioner has named the State of Washington as respondent. The State is not a proper respondent in a habeas corpus petition.

(2) Petitioner must show cause why his petition should not be dismissed and he is granted

1 leave to amend the petition to name a proper respondent to be filed with the clerk not later than
2 December 15, 2005.

3 (3) If petitioner fails to timely file an amended petition naming a proper respondent, the petition
4 will be subject to dismissal.

5 (6) The Clerk is directed to send copies of this Order to petitioner.

6 DATED this 7th day of November, 2005.

7
8 /s/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate Judge